

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

NATIONAL LABOR RELATIONS  
BOARD,

Applicant,

Case No. 3:18-mc-5

vs.

STEPHEN FOSTER,

District Judge Walter H. Rice  
Magistrate Judge Michael J. Newman

Respondent.

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**REPORT AND RECOMMENDATION<sup>1</sup> THAT: (1) APPLICANT'S MOTION TO  
WITHDRAW (DOC. 4) BE GRANTED; (2) APPLICANT'S MOTION TO COMPEL  
(DOC. 1) BE DENIED AS MOOT; AND (3) THIS CASE BE TERMINATED ON THE  
COURT'S DOCKET**

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This miscellaneous case is presently before the Court on the National Labor Relations Board's ("NLRB") motion to withdraw its application seeking enforcement of a subpoena *ad testificandum*. Doc. 4. For good cause shown, the undersigned **RECOMMENDS** that the NLRB's motion to withdraw (doc. 4) be **GRANTED**, its motion to compel (doc. 1) be **DENIED AS MOOT**, and this case be **TERMINATED** on the Court's docket.

Date: March 7, 2019

s/ Michael J. Newman  
Michael J. Newman  
United States Magistrate Judge

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendation. This period is not extended by virtue of Fed. R. Civ. P. 6(d) if served on you by electronic means, such as via the Court's CM/ECF filing system. If, however, this Report and Recommendation was served upon you by mail, this deadline is extended to **SEVENTEEN DAYS** by application of Fed. R. Civ. P. 6(d). Parties may seek an extension of the deadline to file objections by filing a motion for extension, which the Court may grant upon a showing of good cause.

Any objections filed shall specify the portions of the Report and Recommendation objected to, and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based, in whole or in part, upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs.

A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof. As noted above, this period is not extended by virtue of Fed. R. Civ. P. 6(d) if served on you by electronic means, such as via the Court's CM/ECF filing system. If, however, this Report and Recommendation was served upon you by mail, this deadline is extended to **SEVENTEEN DAYS** by application of Fed. R. Civ. P. 6(d).

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).